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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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February 4, 2019

VIA ELECTRONIC TRANSMISSION

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
200 Independence Ave., S.W.
Washington, D.C. 20201

Dear Administrator Verma,

On July 12, 2017, I wrote to you regarding the Medicare Electronic Health Record (EHR) Incentive Program.¹ That program was established to improve healthcare quality, safety, and efficiency through the adoption of EHR technology. EHR's allow providers complete information on which to base a diagnosis or treatment plan as well as the ability to share patient information with hospitals, pharmacies, and laboratories. In my letter, I noted that the U.S. Department of Health and Human Services, Office of Inspector General (HHS OIG) reported that Medicare may have paid hundreds of millions in electronic incentive payments that did not meet the "meaningful use" requirement under the EHR Incentive Program.

On September 26, 2017, the Centers for Medicare & Medicaid Services (CMS) responded that it conducts random pre-payment and post-payment audits to determine whether professionals are appropriately receiving incentive payments and, as a result, had identified improper payments.² Specifically, CMS stated that it received the necessary data to "validate the suspected \$291,222 in overpayments made to 14 sampled professionals..." and is working to recoup those costs.³ Based on CMS' data, the HHS OIG estimated that CMS paid \$729,424,395 to individuals that should not have received it.⁴ CMS' response also noted that, as of September 12, 2017, it had recovered \$2,143,223 in overpayments made to professionals who switched between Medicare and Medicaid and improperly received payments from both programs of which \$201,457 remained outstanding.⁵ The actual and potential financial loss to the taxpayer is staggering. I urge CMS to take all reasonable steps to ensure that taxpayer money is properly used and recovered within the EHR program.

¹ Senator Grassley and Senator Hatch to Administrator Verma (July 12, 2017). <https://www.grassley.senate.gov/news/news-releases/grassley-hatch-urge-cms-recover-7294-million-inappropriate-obama-era-electronic>

² Administrator Verma to Senator Grassley (Sept. 26, 2017).

³ *Id.*

⁴ Senator Grassley and Senator Hatch to Administrator Verma (July 12, 2017).

⁵ Administrator Verma to Senator Grassley (Sept. 26, 2017).

Accordingly, please answer the following no later than February 19, 2019:

1. In the past five years, how many random audits of eligible professionals did CMS conduct? How many received improper payments?
2. Please describe, in detail, the steps CMS took to recoup payments from professionals that received improper EHR payments.
3. How many audits resulted in a referral to the Center for Program Integrity?
4. With respect to the HHS OIG's finding that CMS may have inappropriately paid \$729,424,395, what steps has CMS taken to recover that amount?
5. With respect to the \$291,222 in overpayments made to the 14 sampled professionals, how much has been recovered?
6. With respect to the remaining \$201,457 in improper payments that were made to professionals who switched between Medicare and Medicaid within the same year, how much has CMS recovered?
7. From 2015 to 2018, eligible professionals who did not successfully demonstrate meaningful use were subject to a downward adjustment to their Medicare physician fee schedule payments. How many eligible professionals were subject to a payment adjustment in those years, and what was the total amount of the adjustment?

Thank you for your attention to these important matters. Should you have questions, please contact Josh Flynn-Brown or Caitlin Soto of my Committee staff at 202-224-4515.

Sincerely,



Charles E. Grassley
Chairman
Committee on Finance